



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2013-0011]

RIN 1625-AA00

Safety Zones; Pacific Northwest Grain Handlers Association
Facilities; Columbia and Willamette Rivers

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule and request for comments.

SUMMARY: The Coast Guard has established temporary safety zones around the following Pacific Northwest Grain Handlers Association facilities: the Columbia Grain facility on the Willamette River in Portland, OR, the United Grain Corporation facility on the Columbia River in Vancouver, WA, the Temco Irving facility on the Willamette River in Portland, OR, the Temco Kalama facility on the Columbia River in Kalama, WA, and the Louis Dreyfus Commodities facility on the Willamette River in Portland, OR. These safety zones extend approximately between the navigable channel and the shoreline of the facility described. These safety zones have been established to ensure that on-water protest activities near these facilities do not create hazardous navigation conditions for vessels protesting,

transiting in the navigable channel, or attempting to moor at the facilities and that any on-water activities do not create hazardous conditions while grain-shipment vessels are moored at the facilities. This rule revises the safety zones already promulgated to add one additional grain facility, respond to comments already received, and to correct typographical errors in previous versions of the safety zones at the Columbia Grain and United Grain Corporation facilities.

DATES: This rule will be enforced with actual notice from July 24, 2013, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This rule is effective in the Code of Federal Regulations from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], until [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Requests for public meetings must be received by the Coast Guard on or before [INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of Docket Number USCG-2013-0011. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the

"SEARCH" box and click "SEARCH." Click on "Open Docket Folder" on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may submit comments, identified by docket number, using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: (202) 493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Junior Grade Ian P. McPhillips, Waterways Management Division, Marine Safety Unit Portland, U.S.

Coast Guard; telephone (503) 240-9319, e-mail. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment.

If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit

the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

On February 4, 2013, the Coast Guard published a temporary interim rule and request for comments titled, "Safety Zones; Pacific Northwest Grain Handlers Association Facilities; Columbia and Willamette Rivers" in the Federal Register (78 FR 7665). In that temporary interim rule, the Coast Guard

established temporary safety zones near four Pacific Northwest Grain Handlers Association facilities. This rule adds an additional safety zone near the Louis Dreyfus Commodities facility to those already established, corrects an error in the geographic coordinates of two others, and further defines grain-shipment assist vessels. The errors revised in this rule are incorrect geographic coordinates for the Columbia Grain and United Grain Corporation facilities. The portions of this rulemaking that are unchanged from the previous rulemaking were previously subject to notice and comment.

Some parts of this regulation have not been subject to public notice and comment. The Louis Dreyfus Commodities safety zone, the corrections to positions in previously listed safety zones, and the revised definition of grain-shipment assist vessels are being published without prior notice and comment pursuant to authority under section 4(a) of the Administrative Procedure Act. Section 4(a) authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) for this rule because to do so would be impracticable. Neither grain shipment vessels nor potential

protest activity can be postponed by the Coast Guard. Additionally, delayed promulgation may result in injury or damage to the maritime public, persons participating in protest activities, vessel crews, the vessels themselves, the facilities, and law enforcement personnel from hazardous, close-quarters protest activities that may occur prior to conclusion of a notice and comment period before promulgation.

Although the Coast Guard has good cause to issue this temporary rule without first publishing a proposed rule, you are invited to submit post-promulgation comments and related material regarding the portions of this rule that have changed from the previous rulemaking, which was subject to notice and comment through March 6, 2013. All comments will be reviewed as they are received. Your comments will assist us in drafting future rules should they be necessary, and may result in changes to this temporary interim rule before it expires.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. To delay the effective date would be impracticable since the arrival of grain-shipment vessels cannot be delayed by the Coast Guard and protest activities are unpredictable and potentially volatile and may result in injury to persons, property, or the environment. Delaying the effective date until 30 days after

publication may mean that grain-shipment vessels will have arrived or departed the Columbia and Willamette Rivers before the end of the 30 day period. This delay would eliminate the safety zones' effectiveness and usefulness in protecting persons, property, and the safe navigation of maritime traffic before 30 days have elapsed.

The previous rule was published in the Federal Register on February 4, 2013 (78 FR 7665). Although the Coast Guard had good cause to issue that temporary interim rule without first publishing a proposed rule, it invited the submission of post-promulgation comments and related material regarding that rule through March 6, 2013. The Coast Guard received one comment.

C. Basis and Purpose

These safety zones have been implemented to ensure the safe navigation of maritime traffic on the Columbia and Willamette Rivers and their tributaries while grain-shipment and grain-shipment assist vessels transit to and from these Pacific Northwest Grain Handlers Association facilities and to ensure that vessels remain safely moored at these Coast Guard regulated facilities. In addition, these safety zones around the grain facilities are intended to ensure that members of the maritime public, those participating in protest activities on the water, law enforcement personnel, and vessel crews are not injured. Recreational boating, fishing, and protest activity afloat in

these safety zones is particularly hazardous because of the effects of strong river currents, the maneuvering characteristics of grain-shipment vessels, and the safety sensitive mid-stream personnel transfers conducted by grain-shipment assist vessels with which recreational boaters and protesters may be unfamiliar. These safety zones apply equally to all waterway users and are intended to allow maximum use of the waterway consistent with safe navigation. The impact of the safety zones on maritime activity in the area is minimal because they have been enforced for narrow spans of time and only after notice is provided via Broadcast Notice to Mariners.

Grain-shipment vessel means any vessel bound for or departing or having previously loaded cargo at any of the following waterfront facilities: Columbia Grain in Portland, OR, United Grain Corporation in Vancouver, WA, Temco Irving in Portland, OR, Temco Kalama in Kalama, WA, or Louis Dreyfus Commodities in Portland, OR. This includes any vessel leaving anchor in the Columbia and Willamette Rivers that is bound for or had previously departed from the aforementioned waterfront facilities. Grain-shipment assist vessel means any vessel bound for or departing from a grain-shipment vessel to assist it in navigation during the movement of the grain-shipment vessel in the Columbia and Willamette Rivers and their tributaries. This includes but is not limited to tugs, pilot boats, and launches.

D. Discussion of Comments, Changes and the Interim Rule

The Coast Guard received one comment on the temporary interim rule published on February 4, 2013. The commenter asserted that the safety zones were unnecessary and overbroad. Specifically, the commenter questioned the necessity of the size of these zones. The sizes of these zones are based on the average size of the vessels calling on the affected facilities. The deep-draft grain shipment vessels that call on these facilities are typically between 600 and 800 feet in length. In general, deep-draft grain shipment vessels maneuvering to berth approach at slow ahead, roughly between 6 knots and 4 knots. At this speed, these vessels can stop in four ship lengths or about 1,000 yards. Based on these speed and deceleration rates, a vessel would have roughly two minutes to clear the 150 yard width of the zone in sufficient time so as not to collide with incoming vessels. Establishing a safety zone that can be enforced before this two minute pre-collision period significantly reduces the risk posed by limited ship-to-boat communications and the potential for small boat propulsion failure.

The commenter expressed the importance of "on-water picketing" in publicizing the ongoing labor dispute and concern that the safety zones unnecessarily burden the International Longshore and Warehouse Union's ability to convey their message.

The line of sight on the river is approximately 450 yards. Consequently, only one of the five safety zones contained in 33 CFR 165.T13-240 could conceivably put vessels wishing to be seen out of sight of arriving vessels and then only until the inbound vessel crosses the first 20 or 30 yards of the zone. As no safety zone extends more than 175 yards from the shore of any facility, none of the zones put vessels wishing to be seen out of sight of the facilities, as those wishing to picket could do so adjacent to the safety zone. Though the commenter emphasized its targeted audience is those involved in delivering grain shipments, it is worth noting that the facilities adjacent to which these safety zones have been established are not located in areas accessible to the general public like a park or boardwalk, such that the safety zones deprive vessel operators from being within sight of large audiences.

The commenter also criticized the suggested on-water assembly areas because most are upstream of the facility and not downstream of the facility. These areas were suggested prior to the regulation, but after dialogue between the union members and the Captain of the Port. Vessel operators may operate in any part of the river outside of the zones so long as they do so in accordance with the navigational rules. Finally, the comment misconceives the safety zones as being continuously enforced. The rule has been and will be enforced for narrow spans of time

and only after notice is provided via Broadcast Notice to Mariners.

The safety zone around Columbia Grain is enclosed by three lines and the shoreline: line one starting on the shoreline at 45-38'34" N/122-46'11" W then heading 150 yards offshore to 45-38'37" N/122-46'16" W then heading up river 380 yards to 45-38'30" N/122-46'28" W then heading 150 yards to the shoreline ending at 45-38'27" N/122-46'24" W. In essence, these boundaries extend from the shoreline of the facility 150 yards onto the river from each corner of the facility and encompass all waters and structures therein. The typographical correction to this zone aligns the listed coordinates with the described dimensions. No person or vessel may enter or remain in the safety zone unless authorized by the Sector Columbia River Captain of the Port or his designated representatives.

The safety zone around United Grain Corporation is also enclosed by three lines and the shoreline: line one starting on the shoreline at 45-37'52" N/122-41'46" W then heading 150 yards offshore to 45-37'48" N/122-41'50" W then heading up river 470 yards to 45-37'40" N/122-41'34" W then heading 175 yards to the shoreline ending at 45-37'44" N/122-41'29" W. In essence, these boundaries extend from the shoreline of the facility 150 yards onto the river from each corner of the facility and encompass all waters and structures therein. The typographical correction

to this zone aligned the listed coordinates with the described dimensions. No person or vessel may enter or remain in the safety zone unless authorized by the Sector Columbia River Captain of the Port or his designated representatives.

The safety zone around the Temco grain facility in Kalama, WA is also enclosed by three lines and the shoreline: line one starting on the shoreline at 45-59'10" N/122-50'09" W then heading 150 yards offshore to 45-59'09" N/122-50'14" W then heading up river 385 yards to 45-58'58" N/122-50'07" W then heading 150 yards to the shoreline ending at 45-59'00" N/122-50'01" W. In essence, these boundaries extend from the shoreline of the facility 150 yards onto the river from each corner of the facility and encompass all waters and structures therein. No person or vessel may enter or remain in the safety zone unless authorized by the Sector Columbia River Captain of the Port or his designated representatives.

The safety zone around the Temco grain facility in Portland, OR is also enclosed by three lines and the shoreline: line one starting on the shoreline at 45-32'10" N/122-40'34" W then heading 150 yards offshore to 45-32'09" N/122-40'39" W then heading up river 275 yards to 45-32'01" N/122-40'33" W then heading 150 yards to the shoreline ending at 45-32'04" N/122-40'28" W. In essence, these boundaries extend from the shoreline of the facility 150 yards onto the river from each

corner of the facility and encompass all waters and structures therein. No person or vessel may enter or remain in the safety zone unless authorized by the Sector Columbia River Captain of the Port or his designated representatives.

The safety zone around Louis Dreyfus Commodities in Portland, OR is also enclosed by three lines and the shoreline: line one starting on the shoreline at 45-31'49" N/122-40'15" W then heading 70 yards offshore to 45-31'48" N/122-40'17" W then heading up river 300 yards to 45-31'41" N/122-40'09" W then heading 100 yards to the shoreline ending at 45-31'43" N/122-40'06" W. In essence, these boundaries extend from the shoreline of the facility 70-100 yards onto the river from each corner of the facility and encompass all waters and structures therein. No person or vessel may enter or remain in the safety zones unless authorized by the Sector Columbia River Captain of the Port or his designated representatives.

E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving

Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this rule will restrict access to the regulated areas, the effect of this rule will not be significant because: (i) the safety zones are limited in size; (ii) the official on-scene patrol may authorize access to the safety zones; (iii) the safety zones will effect limited geographical locations for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) the safety zones are limited in size; (ii) the official on-scene patrol may authorize access to the safety zones; (iii) the safety zones will effect limited geographical locations for a limited time; and (iv) the

Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. In preparing this temporary interim rule, the Coast Guard carefully considered the rights of lawful protestors. The safety zones created by this rule do not prohibit members of the public from assembling on shore or expressing their points of view from locations on shore. In addition, the Captain of the Port has, in coordination with protesters, recommended water areas in the vicinity of these safety zones where those desiring to do so can assemble and express their views without compromising navigational safety. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to

safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule

involves the establishment of temporary safety zones around the Columbia Grain facility on the Willamette River in Portland, OR, the United Grain Corporation facility on the Columbia River in Vancouver, WA, the Temco Irving facility on the Willamette River in Portland, OR, the Temco Kalama facility on the Columbia River in Kalama, WA, and the Louis Dreyfus Commodities facility on the Willamette River in Portland, OR. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T13-240 to read as follows:

§ 165.T13-240 Safety Zones; Pacific Northwest Grain Handlers Association Facilities; Columbia and Willamette Rivers.

(a) Definitions. As used in this section:

(1) *Federal Law Enforcement Officer* means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

(2) *Navigable waters of the United States* means those waters defined as such in 33 CFR part 2.

(3) *Navigation Rules* means the International Regulations for Preventing Collisions at Sea, 1972 (commonly called 72 COLREGS) and the Inland Navigation Rules published in 33 CFR Part 83.

(4) *Official Patrol* means those persons designated by the Captain of the Port to monitor a vessel safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone and take other actions authorized by the Captain of the Port. Federal Law Enforcement Officers

authorized to enforce this section are designated as the Official Patrol.

(5) *Public vessel* means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(6) *Grain-shipment vessel* means any vessel bound for, departing from, or having previously loaded cargo at any of the following waterfront facilities: Columbia Grain in Portland, OR, United Grain Corporation in Vancouver, WA, Temco Irving in Portland, OR, Temco Kalama in Kalama, WA, or Louis Dreyfus Commodities in Portland, OR. This includes any vessel leaving anchor in the Columbia and Willamette Rivers that is bound for or had previously departed from the aforementioned waterfront facilities.

(7) *Grain-shipment assist vessel* means any vessel bound for or departing from a grain-shipment vessel to assist it in navigation during the movement of the grain-shipment vessel in the Columbia and Willamette Rivers and their tributaries. This includes but is not limited to tugs, pilot boats, and launches.

(8) *Oregon Law Enforcement Officer* means any Oregon Peace Officer as defined in Oregon Revised Statutes section 161.015.

(9) *Washington Law Enforcement Officer* means any General Authority Washington Peace Officer, Limited Authority Washington Peace Officer, or Specially Commissioned Washington Peace

Officer as defined in Revised Code of Washington section

10.93.020

(b) Locations. The following areas are safety zones:

(1) Columbia Grain: All navigable waters of the United States within the Sector Columbia River Captain of the Port Zone enclosed by three lines and the shoreline: line one starting on the shoreline at 45-38'34" N/122-46'11" W then heading 150 yards offshore to 45-38'37" N/122-46'16" W then heading up river 380 yards to 45-38'30" N/122-46'28" W then heading 150 yards to the shoreline ending at 45-38'27" N/122-46'24" W.

(2) United Grain Corporation: All navigable waters of the United States within the Sector Columbia River Captain of the Port Zone enclosed by three lines and the shoreline: line one starting on the shoreline at 45-37'52" N/122-41'46" W then heading 150 yards offshore to 45-37'48" N/122-41'50" W then heading up river 470 yards to 45-37'40" N/122-41'34" W then heading 175 yards to the shoreline ending at 45-37'44" N/122-41'29" W.

(3) Temco Portland: All navigable waters of the United States within the Sector Columbia River Captain of the Port Zone enclosed by three lines and the shoreline: line one starting on the shoreline at 45-32'10" N/122-40'34" W then heading 150 yards offshore to 45-32'09" N/122-40'39" W then heading up river 275 yards to 45-32'01" N/122-40'33" W then heading 150 yards to the

shoreline ending at 45-32'04" N/122-40'28" W.

(4) Temco Kalama: All navigable waters of the United States within the Sector Columbia River Captain of the Port Zone enclosed by three lines and the shoreline: line one starting on the shoreline at 45-59'10" N/122-50'09" W then heading 150 yards offshore to 45-59'09" N/122-50'14" W then heading up river 385 yards to 45-58'58" N/122-50'07" W then heading 150 yards to the shoreline ending at 45-59'00" N/122-50'01" W.

(5) Louis Dreyfus Commodities: All navigable waters of the United States within the Sector Columbia River Captain of the Port Zone enclosed by three lines and the shoreline: line one starting on the shoreline at 45-31'49" N/122-40'15" W then heading 70 yards offshore to 45-31'48" N/122-40'17" W then heading up river 300 yards to 45-31'41" N/122-40'09" W then heading 100 yards to the shoreline ending at 45-31'43" N/122-40'06" W.

(c) Effective Period. The safety zones created in this section will be in effect from July 24, 2013 and will be enforced until 90 days from date of publication in the Federal Register. They will be activated for enforcement as described in paragraph (d) of this section.

(d) Enforcement Periods. The Sector Columbia River Captain of the Port will cause notice of the enforcement of the grain facilities safety zones to be made by all appropriate means to

effect the widest publicity among the affected segments of the public as practicable, in accordance with 33 CFR 165.7. Such means of notification may include, but are not limited to, Broadcast Notices to Mariners or Local Notices to Mariners. The Sector Columbia River Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone is suspended. Upon notice of enforcement by the Sector Columbia River Captain of the Port, the Coast Guard will enforce the safety zone in accordance with rules set out in this section. Upon notice of suspension of enforcement by the Sector Columbia River Captain of the Port, all persons and vessels are authorized to enter, transit, and exit the safety zone, consistent with the Navigation Rules.

(e) Regulation. (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within these zones is prohibited unless authorized by the Sector Columbia River Captain of the Port, the official patrol, or other designated representatives of the Captain of the Port.

(2) To request authorization to enter or operate within the safety zone contact the on-scene official patrol on VHF-FM channel 16 or 13, or the Sector Columbia River Command Center at phone number (503) 861-6211. Authorization will be granted based on the necessity of access and consistent with safe navigation.

(3) Vessels authorized to enter or operate within the safety zone shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the on-scene official patrol. The Navigation Rules shall apply at all times within the safety zone.

(4) Maneuver-restricted vessels. When conditions permit, the on-scene official patrol, or a designated representative of the Captain of the Port at the Sector Columbia River Command Center, should:

(i) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to enter or operate within the safety zone in order to ensure a safe passage in accordance with the Navigation Rules; and

(ii) Permit commercial vessels anchored in a designated anchorage area to remain at anchor within the safety zone; and

(iii) Permit vessels that must transit via a navigable channel or waterway to enter or operate within the safety zone in order to do so.

(f) Exemption. Public vessels as defined in paragraph (a) of this section are exempt from complying with paragraph (e) of this section.

(g) Enforcement. Any Coast Guard commissioned, warrant, or petty officer may enforce the rules in this section. In the navigable waters of the United States to which this section

applies, when immediate action is required and representatives of the Coast Guard are not present or are not present in sufficient force to provide effective enforcement of this section, any Federal Law Enforcement Officer, Oregon Law Enforcement Officer, or Washington Law Enforcement Officer may enforce the rules contained in this section pursuant to 46 U.S.C. 70118. In addition, the Captain of the Port may be assisted by other federal, state, or local agencies in enforcing this section.

(h) Waiver. The Captain of the Port Columbia River may waive any of the requirements of this section for any vessel or class of vessels upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purpose of port safety or environmental safety.

Dated: July 24, 2013

B. C. Jones
Captain, U.S. Coast Guard
Captain of the Port,
Sector Columbia River

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